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601 DST
RM# 3135

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

FILED

JUL 8 2011

U.S. COURT OF
FEDERAL CLAIMS

MICHAEL PALMA)

Plaintiff,)

v.)

No. 11-419-SGB)

Honorable Susan G. Braden)

THE UNITED STATES OF AMERICA,)

Defendant.)

DEFENDANT'S UNOPPOSED MOTION FOR ENLARGEMENT OF TIME
TO RESPOND TO PLAINTIFF'S MOTION FOR LEAVE
TO PROCEED IN FORMA PAUPERIS

Defendant, the United States of America, requests an enlargement of time of 43 days, to and including August 23, 2011, in which to respond to Plaintiff's Motion for Leave to Proceed in Forma Pauperis [Dkt. No. 3] ("Plaintiff's Motion") in the above-captioned suit. This is the United States' first request for an enlargement of time to respond to Plaintiff's Motion. Counsel for the United States contacted Plaintiff, who is proceeding pro se, and Plaintiff stated that he does not oppose the enlargement of time requested by the United States.

In further support of this motion, Defendant states as follows:

1. Plaintiff's Motion was filed on June 23, 2011, the same day on which Plaintiff filed his complaint [Dkt. No. 1] ("Plaintiff's Complaint"). Pursuant to the rules of this Court, the United States' response to Plaintiff's Motion is currently due July 11, 2011. The United States' response to Plaintiff's Complaint is due August 23, 2011.

2. The United States requests an enlargement of time of 43 days so that it may respond to Plaintiff's Motion and Plaintiff's Complaint on the same day.

4. The undersigned counsel for the United States was assigned to this case yesterday, July 7. Counsel for the United States has had the opportunity to perform a cursory review of Plaintiff's Complaint, and notes that Plaintiff's Complaint may well be beyond the scope of this Court's subject-matter jurisdiction for several reasons, including the following:

a. Plaintiff alleges that he previously filed suit in the United States District Court for the Southern District of Texas. See, e.g., Pl.'s Compl., ¶¶ 3-11. Plaintiff alleges that the lawsuit was dismissed on June 14, 2011, but he does not allege that the time to appeal has run. See id. ¶ 7. Plaintiff's district court case was still pending when he filed suit in this Court because the time in which Plaintiff may notice an appeal from the district court's dismissal had not yet expired. To the extent that Plaintiff's suit in the district court is based upon substantially the same operative facts as his suit in this Court, 28 U.S.C. § 1500 may preclude this Court from hearing this suit.

b. Although Plaintiff's suit in this Court has been docketed as one alleging the taking of private property without the payment of just compensation, Plaintiff appears to be challenging the district court's dismissal of his suit in that court. See, e.g., Pl.'s Compl., ¶¶ 65, 66, 93.

c. Plaintiff alleges a denial of due process, and seeks relief for the same. See, e.g., id., ¶¶ 65, 66, 92, 94.


d. Plaintiff seeks injunctive relief when he requests that "this [C]ourt, if able, order the Southern District of Texas to reopen" his suit in that court, "#4:11-cv-01966[,] and proceed without further violation of due process IF an unbiased judge can be found, or in the alternative have a judge from a far off circuit adjudicate this case." Id., ¶ 92(c).

e. Although Plaintiff's suit in this Court has been docketed as one alleging a taking, Plaintiff's property dispute appears to be with the Harris County (Texas) Appraisal District rather than with the United States. See, e.g., id. at 1 ("TIME IS URGENT IN THIS CASE AS THE GOVERNMENT AGENCY, HARRIS COUNTY APPRAISAL DISTRICT, HAS SET JULY 17[,] 2011 AS THE DATE FOR APPRAISAL OF PRIVATE NON-RENDERED PROPERTY, . . .").

WHEREFORE, the United States respectfully requests that this Court grant it an additional 43 days, to and including August 23, 2011, to respond to Plaintiff's Motion.

Respectfully submitted,

IGNACIA S. MORENO
Assistant Attorney General
Environment & Natural Resources Division



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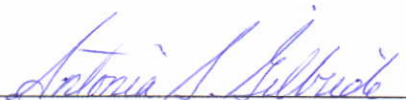
Counsel for Defendant

July 8, 2011

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **DEFENDANT'S UNOPPOSED MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS** has been served via U.S. Mail, first-class postage prepaid, and by electronic mail on this 8th day of July, 2011, to the following party:

Michael Francis Palma
c/o 5026 Autumn Forest Drive
Houston, TX 77091
713-263-9937
Email: mpalma1@sbcglobal.net



Antonia S. Gilbride
Legal Support Assistant

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Defendant.)

NOTICE OF APPEARANCE

To the Clerk of the Court:

Please enter the appearance of Joshua A. Doan as counsel for Defendant, the United States of America, in the above-referenced action. Service of all papers by U.S. Mail should be addressed as follows:

Joshua A. Doan
Trial Attorney
Natural Resources Section
Environment and Natural Resources Division
United States Department of Justice
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Washington, D.C. 20044-0663
(202) 305-0874 (phone)
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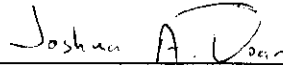
Overnight and hand deliveries should be addressed to:

Joshua A. Doan
Trial Attorney
Natural Resources Section
Environment and Natural Resources Division
United States Department of Justice
601 D Street, NW, Room 3135
Washington, D.C. 20004

Dated: July 8, 2011

Respectfully submitted,

IGNACIA S. MORENO
Assistant Attorney General
Environment & Natural Resources Division

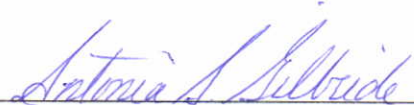


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Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **NOTICE OF APPEARANCE** has been served via U.S. Mail, first-class postage prepaid, and by electronic mail on this 8th day of July, 2011, to the following party:

Michael Francis Palma
c/o 5026 Autumn Forest Drive
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Antonia S. Gilbride
Legal Support Assistant